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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,363	06/13/2005	Gilles Jean-Albert Bernard Dubois	034452-001	6043
21839	7590	12/07/2006		EXAMINER
BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404				MCMILLAN, JESSICA L
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/538,363	DUBOIS, GILLES JEAN-ALBERT BERNARD
<b>Examiner</b>	<b>Art Unit</b>	
Jessica L. McMillan	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  · Responsive to communication(s) filed on 13 June 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-8 and 16-21 is/are rejected.

7)  Claim(s) 9-15 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 13 June 2005 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/22/06.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The abstract of the disclosure is objected to because of the use of the legal term "said". Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

Regarding claims 1, 6, and 20, the phrases "of the type", "preferably" and "in the form of" renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 1, 4, 7 and 21 are objected to because of the following informalities:

Regarding claim 1, the examiner is confused by the phrase "of axis (X-X)". Does it mean that the housing of the mobile illuminating device is along an axis of (X-X)?

Regarding claim 4, line 1, the examiner is unclear as to what "it" refers. The examiner has determined "it" to mean the housing of claim 1 and the rejection is based on the examiners interpretation of "it".

Regarding claim 7, line 2, the word "moulded" is misspelled and should be changed to "molded".

Regarding claim 21, line 2, the word "comprising" should be changed to "comprises".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8, 16, 17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Reiff et al. (US 2002/0191396 A1).

As to **claim 1**, Reiff et al. disclose the mobile illuminating device comprising a generally cylindrical housing of axis (X-X), including: illuminating elements (20) in the form of light-emitting diodes (LED) fixed on a support plate (230); electrical/electronic control and/or connecting means (236) between said illuminating elements (20) and a power source (232); or battery, DC generator, battery pack, car adapter (abstract), characterized in that said housing (figure 12) is in one piece and in that said support plate (230) is inserted in a receptacle (218) of semi-cylindrical shape (shown by figure 14).

As to **claim 2**, Reiff et al. disclose the device according to Claim 1, characterized in that said receptacle (218) of said support plate (230) is of longitudinal axis (X-X).

As to **claim 3**, Reiff et al. disclose the device according to Claim 1, characterized in that said housing (figure 12) is made of transparent material (224; paragraph [0072]).

As to **claim 4**, Reiff et al. disclose the device according to Claim 1, characterized in that it comprises a sleeve (cover 224) made of semi-rigid, or supple material (plastic' paragraph [0072]), covering the surface of said housing.

As to **claim 5**, Reiff et al. and Kennedy et al. disclose the device according to Claim 4, characterized in that said sleeve covers the surface of said housing (figure 12, cover (224) only covers top portion of device (figure 12)) partially.

As to **claim 6**, Reiff et al. and Kennedy et al. disclose the device according to Claim 4, characterized in that said sleeve is made of plastics material (cover 224, made of plastic (paragraph [0072])).

As to **claim 8**, Reiff et al. and Kennedy et al. disclose the device according to Claim 4, and Reiff et al. further disclose the surface of said housing (figure 15) presents a window (270) located opposite said illuminating elements (20).

As to **claim 16**, Reiff et al. disclose the device according to Claim 1, characterized in that it is capable of functioning either by accumulators or batteries disposed in the housing, or by supply of a D.C. source or the mains via a supply line connecting the housing to said D.C. source or to the mains via a transformer (Abstract- describes various possible power sources).

As to **claim 17**, Reiff et al. disclose the Device according to Claim 1 characterized in that said housing comprises means capable of removably holding one or the other of two terminal parts, one comprising means for electrically recharging the accumulators disposed in said housing, the other being adapted to guide and hold a supply line (236) at the outlet of the housing.

As to **claim 19**, Reiff et al. disclose the device according to Claim 1, characterized in that said illuminating elements (20) emit in the visible or ultra-violet range (paragraph [0055], visible light emitted).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Reiff (US 2002/0191396 A1)** in view of **Kennedy et al. (US 6,231,207 B1)**.

As to **claim 7**, Reiff et al. disclose the device according to claim 4, but are silent about the sleeve being molded on the housing. Kennedy et al. disclose a LED flash light lamp with an outer cover (20) molded to housing (12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to mold sleeve to the housing in order to make it durable and protect the housing from damage.

As to **claim 18**, Reiff et al. disclose the device according to Claim 1, but are silent about the housing presenting a planar terminal face, transverse with respect to the longitudinal axis (X-X), in order to allow the device to rest vertically and in stable manner on a horizontal plane. Kennedy et al. disclose a light emitting diode flashlight lamp with an end (14) that would possibly allow the device to rest vertically in order to be able to use the device hands free and in a position desired by the user.

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kennedy et al. (US 6,231,207 B1)** in view of **Reiff et al. (US 2002/0191396 A1)**.

As to **claim 20**, Kennedy et al. disclose the mobile illuminating device of the type comprising a housing (12) of generally cylindrical shape of axis (X-X) including illuminating elements (26) in the form of light-emitting diodes (LED) fixed on a support plate (28); electrical/electronic means for controlling and/or connection (60) between said illuminating elements (26) and an energy source (30); characterized in that said housing (12) is in one piece and in that said support plate (28) presents a one-piece removable part (end cap, 28, can be removed), constituted by said illuminating elements (26) in the form of light-emitting diodes; means for removably fixing said removable part (28) on said housing (12) but is silent about a transparent protection window. Reiff et al. disclose a transparent protection window (fig. 16) to protect the LEDS (20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a transparent protection window in order to be able to protect the Led bulbs and view the light emitting from the device.

As to **claim 21**, Kennedy et al. and Reiff et al. disclose the device according to Claim 20, and Kennedy et al. further disclose a housing (12) that comprises a receiving receptacle (24) of shape complementary to a removable part (28).

#### ***Allowable Subject Matter***

Claims 9-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: prior art of record taken alone or in combination, fails to disclose or render obvious, a mobile illuminating device with a sleeve that presents a cut-out (**claim 9**), a window parallelepiped in shape (**claim 10**), and opening on the surface of the housing opposite a push button on a support plate (**claims 11 and 12**), a housing with second and third receptacles identical in shape (**claims 13 and 14**), and a perforated plate with slots to be transverse by a diode (**claim 15**), in combination with the rest of the limitations of the claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica L. McMillan whose telephone number is (571) 272-5510. The examiner can normally be reached on 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on 571-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Application/Control Number: 10/538,363  
Art Unit: 2875

Page 8

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLM  
11/17/06



RENEE LUEBKE  
PRIMARY EXAMINER